

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT General Services Agency	(2) MEETING DATE 10/8/2013	(3) CONTACT/PHONE Janette Pell, General Services Agency Director 805-781-5200	
(4) SUBJECT Request to approve the Consent to Assignment of the County Courthouse Annex Building Food and Beverage contract to Neighborhood Neighbor's Foods, Inc. for the cafe concession at 1050 Monterey Street in San Luis Obispo and approve the First Amendment to County Courthouse Annex Building Food and Beverage Concession Contract (4/5ths vote required).			
(5) RECOMMENDED ACTION It is recommended that your Board approve and authorize the Chairperson to sign the Consent to Assignment of the County Courthouse Annex Building Food and Beverage Concession Contract with Neighborhood Neighbor's Foods, Inc. and the First Amendment to County Courthouse Annex Building Food and Beverage Concession Contract (4/5ths vote required).			
(6) FUNDING SOURCE(S) n/a	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? n/a
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input type="checkbox"/> Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) n/a		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: n/a <input type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>1/27/2009</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Emily Jackson			
(18) SUPERVISOR DISTRICT(S) District 5 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: General Services Agency
Janette Pell, General Services Agency Director
805-781-5200

DATE: 10/8/2013

SUBJECT: Request to approve the Consent to Assignment of the County Courthouse Annex Building Food and Beverage contract to Neighborhood Neighbor's Foods, Inc. for the cafe concession at 1050 Monterey Street in San Luis Obispo and approve the First Amendment to County Courthouse Annex Building Food and Beverage Concession Contract (4/5ths vote required).

RECOMMENDATION

It is recommended that your Board approve and authorize the Chairperson to sign the Consent to Assignment of the County Courthouse Annex Building Food and Beverage Concession Contract with Neighborhood Neighbor's Foods, Inc. and the First Amendment to County Courthouse Annex Building Food and Beverage Concession Contract (4/5ths vote required).

DISCUSSION

The County Courthouse Food and Beverage Concession Contract is for the café located within the courthouse building at 1050 Monterey Street in San Luis Obispo (see Location Map, Attachment #1), which is currently operated under the name of the Courthouse Café. The current concessionaire, Phillip Riccomini, has operated the business since March 17, 1998. The contract was extended for three years in 2003, and then remained in holdover position after December 2006 in order to evaluate the effects of the new court security system that was installed in March 2007. Sales at the café dropped moderately, and the County negotiated a five year extension of the contract in January 2009 with rent remaining at five percent of gross sales and Mr. Riccomini absorbing the estimated \$3,000 cost to upgrade the hood fire suppression system to meet new fire codes. The current contract expires January 12, 2014.

Mr. Riccomini owns all equipment at the café with the exception of the walk-in refrigerator and the stove hood that are owned by the County. His contract allows him the right to remove his equipment at the termination of the contract. He also has the right to request approval of an assignment of the contract to a new concessionaire during the term of his contract, subject to the County's determination that the new concessionaire meets the County's qualifications. In February 2013, Mr. Riccomini notified the County that he did not wish to extend his contract beyond its expiration date in January 2014 and requested County approval to assign his lease to a new concessionaire with an extended term, which would allow him to sell his equipment in place to the new concessionaire.

Staff informed Mr. Riccomini that the terms of his contract allowed him to request an assignment to a qualified concessionaire, but that the assignment and any extension of the contract term would require approval of the Board and would be based upon the qualifications of the new concessionaire. Assignment applications are evaluated by a review team consisting of at least three General Services Agency employees. Qualified applicants must pass a credit and background check and must have at least three years of restaurant management experience, sound financial resources, a strong business plan consistent with the terms of the contract, and good references. Staff had intended to issue a Request for Proposal (RFP) as the termination date of contract was neared. It is significant to note, however, that responses to RFP's by qualified applicants for cafes in County buildings have been negligible in recent years and have

repeatedly resulted in a disruption of service for County visitors and employees. These businesses have low profitability and, therefore, low demand in the marketplace. The café at the Health Campus on Johnson Avenue in San Luis Obispo, for example, has been closed due to lack of concessionaire interest, and the campus is now served by vending machines.

County concessionaires are often able to develop interest in County café opportunities that RFPs may be unable to generate due to the concessionaires' professional network in the food and beverage industry. Approval of an assignment of the Courthouse Café concession is beneficial to the public and to County and Courts employees because it avoids any disruption in service while allowing the County to fully review the qualifications of a proposed new concessionaire. It also assures a smooth transition because the former concessionaire trains the new concessionaire in the operation of the business as well as acquainting him with County procedures and the interaction with the County facility. California Government Code Section 25536 allows the County to enter into a concession agreement without an RFP with a four-fifths vote of the Board for concessions in County parks, airports, and employee cafeterias.

Mr. Riccomini submitted three applicants for consideration of the assignment. Two of the applications were rejected by the review committee due to poor credit history or insufficient experience. The third application by Neighborhood Neighbor's Foods, solely owned by Mr. Young Kim, passed in all areas that were investigated by the review committee.

The review committee has determined that Mr. Kim is a well qualified applicant. Mr. Kim has four years of prior experience as owner and chef of his own restaurant and is currently the majority partner in a successful sushi restaurant in San Luis Obispo. He is financially sound and has passed the County's credit and background check. He intends to continue operating under the name of Courthouse Café and a similar menu, with high quality foods and reasonable prices. He will also add new menu items and daily specials as well as a catering menu geared toward on-site meetings. He will personally manage the operation and proposes to incorporate e-mail and text message ordering in order to increase business. Operating hours will remain the same, which are a minimum of 7:30 AM to 3:00 PM Monday through Thursday and 7:30 AM to 2:00 PM on Fridays. The Consent of Assignment (Attachment #2) will assign the concession contract to Neighborhood Neighbor's Foods effective immediately, and it is the intention of Mr. Riccomini and Mr. Kim to conclude their transaction on the date that the assignment is approved by your Board.

In addition to the Consent of Assignment, staff proposes that the Board approve the attached First Amendment (Attachment #3) to give Neighborhood Neighbor's Food, Inc. a 5-year extension of the concession agreement through January 12, 2019. The five year term is supported by the strength of Mr. Kim's assignment application. Rent would remain at 5% of gross sales, which staff supports as the upper limit of rent that the business can support. The First Amendment would bring current the County's boilerplate language regarding stormwater pollution prevention, indemnification, and insurance, and will allow the General Services Agency Director to approve any future assignment request during the term of the contract. It also lowers the amount of the letter of credit requirement (security deposit) from \$10,000 to \$2,000 based on staff's evaluation of the County's exposure to financial loss in this agreement. Since the risk of loss is generally limited to unpaid rent or minor repairs when the equipment is removed, staff recommends that a \$2,000 letter of credit is sufficient.

It is recommended that your Board approve both the Assignment and First Amendment to the County Courthouse Annex Building Food and Beverage Concession Contract and authorize the Chairperson to sign the agreements.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has approved the Consent to Assignment and First Amendment as to form and legal effect. County Environmental Health will be inspecting the café premises prior to transfer to the new concessionaire. A committee consisting of General Services Agency staff reviewed the assignment application, which included a credit report and background check, and endorses it.

FINANCIAL CONSIDERATIONS

Rent at 5% of gross sales was \$6520 for Fiscal Year 2012-13, paid into Fund Center 11307- General Services- Property Management. The rental percentage will remain at 5% of gross sales, and rental income to the County is not projected to change significantly this fiscal year. The revenue budget from the Courthouse Cafe for Fiscal Year 2013-14 is \$6,700.

RESULTS

Approval of the Consent to Assignment and the First Amendment for the County Courthouse Annex Building Food and Beverage Concession will assign the contract to Neighborhood Neighbor's Food, Inc. and will extend the contract for an additional five years, through January 2019. This action supports the County's community-wide goal of a Livable Community by continuing to offer high quality food service for visitors and employees at the County Courthouse Annex Building at 1050 Monterey in San Luis Obispo.

ATTACHMENTS

1. Location Map
2. Assignment Contract
3. First Amendment to Contract